



Verification Assessment

COMPANIES: New Era Cap Co., Inc
COUNTRY: China
ASSESSMENT DATE: 11/07/17
ASSESSOR: Elevate
PRODUCTS: Apparel
NUMBER OF WORKERS:

FLA Comments

This SCI is a verification assessment of assessment AA000000548. All corrective action plan updates for AA000000548 will be published on this report.

Summary of Code Violations

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

Previous Report Findings and Verification Results

PREVIOUS FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

There are no policies for Recruitment, Hiring & Personnel Development or Termination & Retrenchment.

There are no procedures for personnel development; performance reviews, broadening workers' skills in order to advance their careers, promotion, demotion, job reassignment, and Termination & Retrenchment. As a result, no performance reviews have been conducted.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.1, ER.28.1, ER.29.1, ER.30.1, and ER.32)

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

1. Finding Status: Remediated

Explanation: Based on documentation review, the policies for Recruitment, Hiring & Personnel Development or Termination & Retrenchment had been established, and these policies are posted onsite for workers' reference.

2. Finding Status: Partially Remediated

Explanation: Based on documentation review and management interview, the procedures for personnel development, performance reviews, broadening workers' skills in order to advance their careers, promotion, demotion, job reassignment, and Termination & Retrenchment had been established, however; no performance reviews have been conducted. [ER.29]

Root Causes: The person in-charge who did the performance review was not clear exactly how to conduct it, and factory will learn more about the performance review methods then integrate into their operation.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER29)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Performance Reviews of employees were conducted and supporting documentation provided.

PREVIOUS FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

The factory has not hired any disabled workers, which violates of legal requirements that state at least 1.5% of the total workforce should be comprised of disabled workers. Although the factory contributes to the Employment Security Fund in lieu of employing disabled workers, as allowed under local law, this practice carries the risk of discrimination based on the FLA Workplace Code and Benchmarks.

Local Law or Code Requirement

Regulation on the Employment of the Disabled (2007), Article 8; Regulation on the Employment of the Disabled of Jiangsu Province (2006), Article 4; Labor Contract Law of PRC (2008), Article 19; FLA Workplace Code (Employment Relationship Benchmarks ER.3; Nondiscrimination Benchmarks ND.1 and ND.2.1)

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

Explanation: Based on documentation review and management interview, factory has only hired 1 disabled worker, not 2 disabled workers, which violates of legal requirements that state at least 1.5% of the total workforce should be comprised of disabled workers. Although the factory contributes to the Employment Security Fund in lieu of employing disabled workers, as allowed under local law, this practice carries the risk of discrimination based on the FLA Workplace Code and Benchmarks. [ER.3, ND.1, ND.2.1]

Root Causes: Factory has submitted an application to the local village committee requesting 2 disabled employees, but there is no appropriate workers. The factory will expand recruitment scope.

Local Law or Code Requirement

Regulation on the Employment of the Disabled (2007), Article 8; Regulation on the Employment of the Disabled of Jiangsu Province (2006), Article 4; Labor Contract Law of PRC (2008), Article 19; FLA Workplace Code (Employment Relationship Benchmarks ER.3; Nondiscrimination Benchmarks ND.1 and ND.2.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory has taken all necessary steps to recruit an additional disabled worker, but to date they have not received additional disabled applicants. In addition, they comply with local law by contributing to the Employment Security Fund.

PREVIOUS FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

The factory does not conduct periodic reviews of its policies and procedures for the following Employment Functions: Compensation, Hours of Work, Workplace Conduct & Discipline, Grievance System, and Health & Safety.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3, ER.30.2, and ER.31.1)

VERIFICATION RESULT

Finding Status

Remediated

Remediation Details

Explanation:

Based on documentation review and management interview, factory has conducted periodic reviews of its policies and procedures for the following Employment Functions: Compensation, Hours of Work, Workplace Conduct & Discipline, Grievance System, and Health & Safety, such as conducting internal audit for all Employment Functions, having regular review meetings and etc.

PREVIOUS FINDING NO.4

UNCORROBORATED RISK OF NON-COMPLIANCE

FINDING TYPE: Hours of Work

Finding Explanation

Time records from October 2013 to October 2014 showed that workers worked less than 36 hours overtime a month; however, a review of production records revealed the following contradictions:

A conveyor belt daily calibration record noted that worker A worked until 16:30 on June 7 & 14 and August 16, 2014; however, time records stated worker A was off at 11:00 on the mentioned dates.

Sewing quality control records noted that workers B and C worked until 16:00 on September 20, 2014; however, time records stated they were off at 11:00 on the mentioned date.

The factory representative explained that the contradictory records were due to workers' mistakes.

No further evidence leading to a conclusion of the issue was found.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.2.1, ER.23.2, and ER.23.5)

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

Explanation:

In order to verify that provided wage and working hour records were accurate and complete, a variety of production and other records were cross-checked for consistency. Based on these documentation review and workers interview, several inconsistencies were found.

Through review of the daily output records of factory, it was noted that there were working records for October 22nd, 2017(Sunday), however, the provided attendance records showed that all workers of the factory rested on that day. The factory representative explained that the contradictory records were due to workers's mistakes. Since there were no daily production records for October 23rd, 2017 (Monday), there is the possibility that the date recorded in the attendance record was a mistake. A review of the attendance records in HR department revealed that two workers' attendance records for June & August 2016 were difference from the attendance record provided by management. [ER.2, ER.23.2]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.2 and ER.23.2)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory requested its HR staff to conduct a monthly audit of the records to verify the consistency and authenticity of the wage and hour records. This will be verified during the 2018 audit of the factory.

PREVIOUS FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

Since the Qing Ming Festival holiday was on a Saturday, the workers should have been paid at a premium rate of 200% on the makeup day (April 7th, 2014); however, all workers worker eight hours that day and were not compensated at the premium rate.

Local Law or Code Requirement

Labor Law of Peoples Republic of China (1995), Article 44; FLA Workplace Code (Compensation Benchmark C.7.2)

Recommendations for Immediate Action

Compensate workers as legally required.

VERIFICATION RESULT

Finding Status

Remediated

Remediation Details

Explanation:

Based on documentation review and workers interview, factory has compensated wages to workers who worked on April 7th, 2014, and for last 12 month, there is no similar situation occurred again.

PREVIOUS FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

Not all employees are covered with social insurance; 129 employees (83%) have injury and medical insurance, but are not covered by pension, unemployment, and maternity insurance. The factory provides 22 employees (17%) with work related injury, medical, pension, unemployment, and maternity insurance. In addition, 129 employees (83%) were covered under commercial work related injury insurance and medical insurance.

The factory does not contribute to the Housing Provident Fund.

Local Law or Code Requirement

Labor Law of PRC, Article 72; Social Insurance Law of PRC, Articles 58 and 60; Regulation on the Housing Provident Fund Management (2002), Article 15; FLA Workplace Code (Employment Relationship Benchmark ER.18 and ER.22; Compensation Benchmarks C.1)

Recommendations for Immediate Action

1. Ensure that all employees are covered by all types of social insurance.
2. Contribute to the Housing Provident Fund.

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status: Not Remediated

Explanation:

Based on worker interviews and documentation review, not all employees are covered with social insurance. The factory provides 27 employees (27%) with work related injury, medical, pension, unemployment, and maternity insurance. In addition, 94 employees (95%) were covered under commercial work related injury insurance and medical insurance. [ER.22, C.10]

Root Causes:

Workers are unwilling to participate in social insurance as it will reduce their take-home wages.

2. Finding Status: Not Remediated

Explanation:

Based on worker interviews and documentation review, the factory does not contribute to the Housing Provident Fund. [C.1]

Root Causes:

At this stage, factory as well as workers are unwilling to pay the Housing Provident Fund as the cost, but they will make a plan to increase participation in the future.

Local Law or Code Requirement

Labor Law of PRC, Article 72; Social Insurance Law of PRC, Articles 58 and 60; Regulation on the Housing Provident Fund Management (2002), Article 15; FLA Workplace Code (Employment Relationship Benchmark ER.18 and ER.22; Compensation Benchmarks C.1 and C.10)

Recommendations for Immediate Action

1. Ensure that all employees are covered by social insurance.
2. Contribute to the Housing Provident Fund.

COMPANY ACTION PLANS

Action Plan no 1.

Description

According to the factory, since workers have to contribute from their own wages to enroll in Social Insurance and the Housing Provident Fund, not all workers are willing to participate in these schemes. The factory conducts annual trainings on Social Insurance and Housing Provident Fund to their workers, with the most recent training conducted on April 28, 2018.

PREVIOUS FINDING NO.7

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. FLA Comment: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All China Federation of Trade Unions (ACFTU). According to the

International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non- recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non- negotiated administrative agreements.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.16.2; Freedom of Association Benchmarks FOA.2)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

Explanation:

Based on management interviews and documentation review, it was found that the Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non- negotiated administrative agreements. [FOA.2]

Root Causes:

Freedom of Association of the factory is according to legal requirements.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.16.2; Freedom of Association Benchmarks FOA.2)

COMPANY ACTION PLANS

Action Plan no 1.

Description

In China, there are legal restrictions that do not allow for full Freedom of Association according to international labor standards. Despite these restrictions, the factory held an election for Worker Representatives with 100% of employee participation. There are 2 Worker Representatives currently representing workers and who participate in monthly meetings with factory management. In addition, a Collective Contract has been signed with factory management and workers. These practices are permissible under China law.

PREVIOUS FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The factory does not have procedures for the certification, inspection, assessment, and review of the electrical, grounding, and lightning protection systems.

There is no guidance for external contractors/service providers pertaining to the factory's Health & Safety policies.

Protective guards (eye-shields) were not properly used by 20% of the workers in the sewing section.

Elevators and other mechanical lifting devices do not have signs that indicate the maximum load and that they are not intended for human use.

Local Law or Code Requirement

Law of the People's Republic of China on Production Safety, Article 37; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.4, HSE.8, and HSE.14)

Recommendations for Immediate Action

1. Ensure that workers properly use protective guards (eye-shields).
2. Ensure that mechanical lifting devices have signs that indicate the maximum load and that they are not intended for human use.

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status: Remediated

Explanation:

Based on documentation review, procedures for the certification, inspection, assessment, and review of the electrical, grounding, and lightning protection systems had been established, and related training has provided for workers.

2. Finding Status: Remediated

Explanation:

Based on documentation review, guidance for external contractors/service providers pertaining to the factory's Health & Safety policies had been established.

3. Finding Status: Not Remediated

Explanation:

Based on visual observation, protective guards (eye-shields) were not properly used by 16% of the workers in the sewing section. [HSE.14]

Root Causes:

According to training records and workers interview, factory has provided training to workers regularly, but workers were still not properly used because of adverse operation.

4. Finding Status: Remediated

Explanation:

Based on visual observation, the sign of maximum load and that they are not intended for human use has indicated on the elevators and other mechanical lifting devices.

Local Law or Code Requirement

Article 6.1.6 of Code of Design of Manufacturing Equipment Safety and Hygiene; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.14)

Recommendations for Immediate Action

Ensure that workers properly use protective guards (eye-shields).

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory has conducted additional trainings to workers on the importance of using the protective guards and the dangers of disabling them. In order to prevent recurrence of non-compliance, the factory conducts a monthly internal audit that includes monitoring worker usage of the safety guards.

PREVIOUS FINDING NO.9

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The factory does not have a system to track illnesses.

Factory has not established ergonomics program, and has not taken any proactive steps to reduce repetitive-motion stress/injuries. The factory was lacking awareness and knowledge on ergonomic risks in the workplace, e.g., workstations are not adjustable to fit individual workers to increase employees' ergonomic comfort and prevent injury, and no floor mats are provided for workers' work standing.

Local Law or Code Requirement

FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.3 and HSE.17; Employment Relationship Benchmark ER.31)

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

1. Finding Status: Remediated

Explanation:

Based on worker interviews and documentation review, the factory has established related procedure and tracked illnesses for workers properly, such as conducting health check, and handle the results properly.

2. Finding Status: Partially Remediated

Explanation:

Based on visual observation and documentation review, the factory has established ergonomics program, and has taken some proactive steps to reduce repetitive-motion stress/injuries. They have provided floor mats for standing workers; however, workstations are still not adjustable to fit individual workers to increase employees' ergonomic comfort and prevent injury or sitting workers are provided with adjustable chairs with backrests. [HSE.17]

Root Causes:

As it involves the cost, factory will make a plan on how to achieve.

Local Law or Code Requirement

FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.17)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory has provided adjustable chairs with backrests to sitting workers.

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

The worker integration component is missing across all Employment Functions. This indicates that the factory has not established procedures to request and/or receive workers' input/feedback regarding the creation, implementation, and updating of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3 and ER.25.2)

VERIFICATION RESULT

Finding Status

Remediated

Remediation Details

Explanation:

Based on worker interviews and documentation review, the worker integration component has involved into all Employment Functions. The procedures has established to request and/or receive workers' input/feedback regarding the creation, implementation, and updating of its policies and procedures. It indicated that workers were integrated or consulted in decision-making processes.

PREVIOUS FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

The factory does not provide training for supervisors or management on the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Industrial Relations, Workplace Conduct & Discipline, and Grievance System. Additionally, training is not provided to HR personnel and administrative staff for Workplace Conduct & Discipline.

The factory does not provide ongoing training for workers on the following Employment Functions: Workplace Conduct & Discipline, Retrenchment, Industrial Relations, and Grievance System.

Training on workplace safety is not provided for employees designated with safety/firefighting responsibilities.

Training on maintenance safety is not provided for employees with maintenance responsibilities.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.1.2, ER.15.2, ER.17.1, ER.17.2, and ER.27; Health, Safety & Environment Benchmarks HSE 6.2 and HSE.14.2)

VERIFICATION RESULT

Finding Status

Remediated

Remediation Details

1. Finding Status: Remediated

Explanation:

Based on worker interviews and documentation review, factory has provided training for supervisors or management on the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Industrial Relations, Workplace Conduct & Discipline, and Grievance System. The training is also provided to HR personnel and administrative staff for Workplace Conduct & Discipline.

2. Finding Status: Remediated

Explanation:

Based on worker interviews and documentation review, factory has provided ongoing training for workers on the following Employment Functions: Workplace Conduct & Discipline, Retrenchment, Industrial Relations, and Grievance System, related records were kept properly.

3. Finding Status: Remediated

Explanation:

Based on worker interviews and documentation review, training on workplace safety has provided for employees designated with safety/firefighting responsibilities.

4. Finding Status: Remediated

Explanation:

Based on worker interviews and documentation review, training on maintenance safety has provided for employees with maintenance responsibilities.

New Findings and Action Plans

NEW FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

The factory has not kept personnel data, such as copies of official age documentations for two new recruits. [CL.1, ER.4]

Local Law or Code Requirement

Regulations of Provisions on the Prohibition of Using Child Labor, article 4, FLA Workplace Code (Employment Relationship Benchmarks

Recommendations for Immediate Action

Keep personnel data for temporary workers in the facility.

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory completed personnel files for the two temporary workers immediately following the audit.

In order to prevent recurrence of non-compliance, the factory conducts a monthly internal audit of personnel files to ensure they are complete.

NEW FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

The factory has not keep attendance records for two new recruits who joined in factory on October 12, 2017, hence the overtime hours of these two workers could not be verified during this assessment. [ER.2, ER.23, ND.3]

For the period from October 2016 to September 2017, about 93% of workers' monthly overtime exceeded the legal limit of 36 hours, workers' monthly overtime working hour ranged from 40 hours to a maximum of 74 hours, with the average was 64 hours. The highest monthly overtime (74 hours) occurred in September 2017. [HOW.1.1]

The factory's production plan always includes overtime, and weekly working hours are based on 56 working hours per week. [ER.24]

Local Law or Code Requirement

PRC Provisional Regulations for the Payment of Wages article 6, PRC Labor Law article 41, FLA Workplace Code (Employment Relationship Benchmarks ER.2, ER.23, and ER.24; Hours of Work Benchmarks HOW.1; Nondiscrimination Benchmark ND.3) Safety Code of Electric Power Industry—Part 1: Thermal and Machine, 3.5.5, FLA Workplace Code (Health, Safety, and Environment Benchmark HSE.13) Regulation For Chemical Usage Safety in Work Place clause 27, FLA Workplace Code (Health, Safety, and Environment Benchmark HSE.10)

Recommendations for Immediate Action

1.
Keep proper attendance records for new recruits.
2.
Ensure the monthly overtime hours are within 36 hours per month.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1.
The factory began maintaining accurate and complete attendance records for the two temporary workers immediately following the audit. (11/9/2017)
2.
The factory agreed to base weekly working hours on 40 per week instead of 56 per week. However, it will still be difficult to meet the legal minimum of 36 OT hours per month.

NEW FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The cover of one power switch in the boiler room has been broken, exposing the power switches. [HSE.13]

Local Law or Code Requirement

Safety Code of Electric Power Industry—Part 1: Thermal and Machine, 3.5.5, FLA Workplace Code (Health, Safety, and Environment Benchmark HSE.13)

Recommendations for Immediate Action

Ensure the covers of power switches are completed.

COMPANY ACTION PLANS

Action Plan no 1.

Description

The cover for the power switch was installed immediately following the audit.
In order to prevent recurrence of non-compliance, the factory conducts a monthly internal audit that includes checking the power switches.

NEW FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The factory does not have an MSDS for the cleaning agent used in packing section of the factory. [HSE.10]

Local Law or Code Requirement

Regulation For Chemical Usage Safety in Work Place clause 27, FLA Workplace Code (Health, Safety, and Environment Benchmark HSE.10)

Recommendations for Immediate Action

Ensure that MSDS forms of cleaning agent in use are available in local language.

COMPANY ACTION PLANS

Action Plan no 1.

Description

The MSDS was posted at the packaging section immediately following the audit.
In order to prevent recurrence of non-compliance, the factory conducts a monthly internal audit that includes checking whether the MSDS is posted in specific areas.